

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-4068

United States of America,

Appellee,

v.

Michael Lee Lippincott,

Appellant.

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Appeal from the United States
District Court for the Southern
District of Iowa.

[UNPUBLISHED]

Submitted: June 6, 2003

Filed: June 18, 2003

Before LOKEN, Chief Judge, MORRIS SHEPPARD ARNOLD, and SMITH, Circuit
Judges.

PER CURIAM.

Michael Lee Lippincott challenges the sentence the district court¹ imposed after he pleaded guilty to conspiring to manufacture and distribute 50 grams or more of actual methamphetamine, in violation of 21 U.S.C. §§ 841(b)(1)(A) and 846, and using and carrying a firearm in relation to a drug-trafficking offense, in violation of 18 U.S.C. § 924(c)(1)(A). At sentencing, the district court granted a substantial-

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

assistance departure and sentenced him to consecutive prison sentences of 100 months and 60 months, to be followed by 5 years supervised release.

On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing the district court should have granted a more extensive departure. The extent of the district court's downward departure, however, is unreviewable. See United States v. Dutcher, 8 F.3d 11, 12 (8th Cir. 1993). Mr. Lippincott has filed a pro se brief arguing that he was involved in the conspiracy for only four weeks, and that he never possessed or carried the firearm. These arguments do not succeed. Mr. Lippincott's sentence was based on the four-week time frame that he admits he was involved in the conspiracy, and his guilty plea, which was supported by detailed factual stipulations, forecloses his arguments that the firearm was not involved in the offense. See O'Leary v. United States, 856 F.2d 1142, 1143 (8th Cir. 1988) (per curiam).

Upon reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we affirm. We also grant counsel's motion to withdraw and deny Mr. Lippincott's motion for appointment of new counsel.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.